

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

NICKENSON LOUIS-MARTIN,

Plaintiff,

v.

ALBERTO GONZALES,
Attorney General

Defendant.

CIVIL ACTION NO. 3:05-CV-2467

(JUDGE CAPUTO)

MEMORANDUM

Presently before the Court is a Petition for Writ of Habeas Corpus filed by Nickenson Louis-Martin in the United States District Court for the Eastern District of New York, transferred on November 28, 2005 to this Court by the Second Circuit Court of Appeals.

This case is the fourth petition for habeas filed by Mr. Louis-Martin. In his first filing, I evaluated and denied Petitioner's claims of United States citizenship; however, I granted a writ of habeas corpus, vacated the order of removal, and remanded the matter to the Bureau of Immigration and Customs Enforcement for consideration of Petitioner's Convention Against Torture claims. See *Louis-Martin v. Ridge*, 322 F. Supp. 2d 556 (M.D. Pa. 2004). On March 1, 2005, Mr. Louis-Martin's Convention Against Torture claim was denied by the Immigration Judge.

Then, on March 14, 2005, Petitioner filed a second Petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief with Temporary Restraining Order. See *Louis-Martin v. Ridge*, No. 3:05-CV-0518. I denied Mr. Louis-Martin's motion because he had failed to exhaust his administrative remedies and dismissed his petition

without prejudice. *Id.*

On September 30, 2005, Petitioner filed a third Petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief with Temporary Restraining Order seeking (1) an injunction enjoining Respondents from removing Petitioner; (2) that Petitioner be granted cancellation of removal; (3) a declaration that Petitioner is eligible for bail; and (4) that Petitioner be released on supervised parole pursuant to *Zadvyda v. Davis*, 533 U.S. 678 (2001). See *Louis-Martin v. Ridge*, No. 3:05-CV-1985. On October 4, 2005, I denied Mr. Louis-Martin's motion and dismissed his petition. (05-CV-1985, Doc. 2).

The present habeas petition was dismissed by the United States District Court for the Eastern District of New York as an "abuse of writ." (Doc. 1-8, Ex. 2). The United States District Court for the Eastern District of New York determined that "the claims petitioner raised before [this Court] are identical to the claims he raises in the instant petition," and furthermore, determined that this Court's previous decision "fully considered all of petitioner's claims." *Id.*

DISCUSSION

The pre-Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA) doctrines concerning abusive or successive petitions are applicable to petitions under 28 U.S.C. § 2241. See, e.g., *Rosales-Garcia v. Holland*, 322 F.3d 386, 398-99 (6th Cir. 2003); *Zayas v. INS*, 311 F.3d 247, 257 (3d Cir. 2002). Under the pre-AEDPA standard, when a court has denied a prior application for a writ of habeas corpus, that judgment will bar a subsequent petition if: (1) the earlier petition presented the same ground for relief, (2) the

prior determination was on the merits, and (3) reaching the merits of the subsequent petition would not serve the ends of justice. *Sanders v. United States*, 373 U.S. 1, 15 (1963).

In the present habeas petition, Mr. Louis-Martin asks the Court for the identical forms of relief sought in his petitions previously addressed by the Court. The Court's prior determinations were on the merits, and reaching the merits of Mr. Louis-Martin's current petition would not serve the ends of justice. Therefore, I will dismiss Mr. Louis-Martin's Petition for Writ of Habeas Corpus.

An appropriate Order follows.

December 7, 2005

Date

/s/ A. Richard Caputo

A. Richard Caputo
United States District Judge

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(JUDGE CAPUTO)

ORDER

NOW, this 7th day of December, 2005, **IT IS HEREBY ORDERED** that:

- (1) Petitioner Nickenson Louis-Martin's petition for writ of habeas corpus is **DISMISSED**.
- (2) The Clerk of the Court shall mark this case **CLOSED**.

/s/ A. Richard Caputo
A. Richard Caputo
United States District Judge